A to Z Maintenance Corp. *and* Teamsters Local Union 429, International Brotherhood of Teamsters, AFL–CIO *and* Mark W. Windish *and* James E. Harper, Jr. and Laborers Local 135, affiliated with the Laborers District Council of Metropolitan Area of Philadelphia and Vicinity, Party to the Contract. Cases 4–CA–19377, 4–CA–20169, and 4–CA–19984

November 30, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS OVIATT AND RAUDABAUGH

On March 4, 1992, Administrative Law Judge Robert A. Giannasi issued the attached decision. The Party to the Contract filed exceptions and a supporting brief, and the General Counsel filed an answer to those exceptions, cross-exceptions, and a supporting brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions[2] and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, A to Z Maintenance Corp., Glassboro, New Jersey, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

[1] The General Counsel has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[2] We affirm the judge's conclusion that the Respondent violated Sec. 8(a)(2) and (1) by recognizing Laborers Local 135 at a time when it did not have majority support among the unit employees. We accordingly find it unnecessary to pass on whether the Respondent's recognition of Laborers Local 135 was, in addition, premature on the basis of lack of a representative complement.

The General Counsel has excepted to the judge's failure to find that the Respondent violated Sec. 8(a)(1) of the Act by telling employee Mark Windish to advise the employees that they should join Laborers Local 135 ''for job security reasons.'' The judge dismissed this allegation as superfluous. Member Oviatt, under the circumstances of this case, would find that this directive is coercive and that it violated Sec. 8(a)(1) of the Act, and that the finding is not superfluous.

Barbara Joseph, Esq., for the General Counsel.
Gregory B. Montgomery, Esq., of Lawnside, New Jersey, for the Respondent.
Thomas H. Kohn, Esq., of Philadelphia, Pennsylvania, for the Charging Party.
Robert C. Cohen, Esq., of Philadelphia, Pennsylvania, for the Party to the Contract.

DECISION

STATEMENT OF THE CASE

ROBERT A. GIANNASI, Administrative Law Judge. This case was tried on December 3, 4, and 5, 1991, in Philadelphia, Pennsylvania. The complaint alleges that Respondent violated Section 8(a)(1) of the Act by making coercive statements to employees, and Section 8(a)(2), (3), and (1) of the Act by recognizing Laborers Local 135 (Laborers) as the exclusive bargaining representative of certain of its employees and thereafter entering into, maintaining, and enforcing a collective-bargaining agreement between it and Laborers, which included, among other provisions, a union-security clause which required employees to join Laborers and pay dues and fees to it as a condition of employment. The complaint also alleges that, pursuant to the bargaining agreement, Respondent deducted union dues from the paychecks of employees and forwarded the money to Laborers. Such conduct occurred, according to the complaint, at times when Laborers did not represent a majority of the employees in the unit. The complaint also alleges that Respondent violated Section 8(a)(3) and (1) of the Act by discharging employee James E. Harper because he refused to become a member of Laborers. Respondent filed an answer denying the essential allegations in the complaint. The General Counsel and Laborers filed briefs in this case; the Respondent did not.[1]

Based on the testimony of the witnesses, and my observation of their demeanor while testifying, as well as the documentary evidence, the briefs, and the entire record herein, I make the following[2]

FINDINGS OF FACT

I. JURISDICTION

Respondent, a Pennsylvania corporation engaged in providing building maintenance services, has its principal place of business in Glassboro, New Jersey. During a representative 1-year period, Respondent provided services valued in excess of $50,000 directly to customers located outside New Jersey. Accordingly, I find, as Respondent admits, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

Laborers and Charging Party (Teamsters) are labor organizations within the meaning of Section 2(5) of the Act.

[1] The complaint originally included allegations against Laborers as well. However, before the hearing opened, the Regional Director issued an order dismissing those allegations and severing the case against Laborers from that against Respondent, apparently in reliance on *Kaiser Foundation Hospitals*, 228 NLRB 468 (1977).

[2] I hereby grant the General Counsel's unopposed motion to correct the transcript.

II. THE UNFAIR LABOR PRACTICES

A. *The Facts*

Laborers and Bechtel Construction, Inc. were parties to a collective-bargaining agreement covering custodial employees working for Bechtel at the Philadelphia Electric Company (PECO) nuclear power facility in Limerick, Pennsylvania. The agreement, which, by its terms, covered ''all custodial services . . . assigned by [PECO] to Bechtel,'' was in effect through early July 1990, the last point at which Bechtel had custodial employees at the Limerick site. The record is unclear as to the extent of Bechtel's custodial work. For example, it does not appear that Bechtel was assigned custodial work in the so-called power block area where radioactive material was present. However, documentary evidence reveals that about 24 employees worked at the site under the Laborers-Bechtel contract in June 1990. Some worked only part of the month and it is unclear if any of these was a supervisor.

In April 1990, PECO awarded Respondent two contracts to provide custodial services at the Limerick facility. They were based on Respondent paying union-scale wages and benefits. One of the contracts was for general housekeeping work in secured and unsecured buildings and grounds outside the power block. This apparently covered the work previously done by Bechtel. The second contract was for custodial work in the power block area. The latter required a special status for employment and access. The custodial duties under the two contracts were ''absolutely, totally'' different, according to the Respondent's project manager, Lee Malone. The power block contract was based on specific hours and employment complement; it was anticipated that 12 employees would be employed under the contract. The general housekeeping contract was based on a flat rate so that there was some incentive to perform the work as efficiently as possible with as few employees as possible; it was anticipated, however, that Respondent would need some 27 to 30 employees under this contract at full operation.

Respondent was to assume responsibility under both contracts as of June 1, 1990, but there was some delay and it did not begin general housekeeping work until June 11, 1990, and, even then, with a skeleton work force; it did not assume responsibility for the power block work until December 1990. Until December, another company, ARC, was responsible for providing custodial services for the power block. Nevertheless, when Respondent began hiring employees in June 1990, it did so with the intention of hiring people for both its general housekeeping and power block work.

In late April or early May 1990, representatives of Laborers and of Respondent met for preliminary discussions or negotiations. It was Respondent's desire to hire at least some of the Bechtel custodial employees already on site, and work out an arrangement with Laborers. However, the discussions centered on Laborers providing potential employees to the Respondent. Malone was instructed by his superior, President Sam Williams, to hire people who met PECO's rather stringent personnel requirements, which included preemployment testing, security clearances, and drug screening. Malone was to hire not only from those prospects suggested by Laborers, but from other sources. Malone actually held job recruitment seminars and hired most of his employees ''off the street.'' Malone testified that he was looking for a total of about 40 employees to work under both of Respondent's contracts.

At about this time—actually some time in May—Laborers agreed to provide a specific number of applicants to Respondent and Laborers apparently submitted a list of names to it. Since PECO had to be satisfied that any employees hired met its qualifications, Respondent submitted the names to PECO. It learned that none of the names submitted by Laborers had such qualifications. This meant that these people had never been qualified, or, if they had, they were either not presently employed or had been offsite for a longer period than permitted by PECO without requalification. As a result, Respondent made arrangements with PECO and with Laborers to have these people undertake whatever preemployment testing was required. However, when the time came for the testing, none of these people showed up at the appointed time and date for the test. Respondent later learned that Laborers refused to send its prospects to the testing location because it had not yet finalized a collective-bargaining agreement with Respondent.

Faced with an impending date for taking over at least the housekeeping portion of the custodial work, Respondent undertook to hire employees elsewhere. It hired its first group of employees on June 11, 1990. All were new employees; none had previously worked at the Limerick site. Because of Respondent's inability immediately to take over the custodial work on June 1, there was some initial confusion on the site as to who was performing this work. Apparently both Bechtel and PECO employees were also performing housekeeping work at this time. In the few weeks after June 11, Respondent hired other employees and by the end of the July 18, 1990 pay period, it had 14 or 16 employees at the Limerick site, depending on whether two of them could be classified as supervisors within the meaning of the Act. At this point only two of these employees had previously worked for Bechtel onsite. There was some turnover at this time and PECO apparently relaxed its preemployment requirements so that Respondent could hire first and qualify its employees later.

At some point in June or July 1990—perhaps even before, but by July 18, 1990, at the latest—Respondent granted recognition to Laborers as the exclusive bargaining representative of its Limerick employees, although neither the unit nor the circumstances of recognition are clear on this record. Both the Respondent's answer and Williams' testimony concede recognition at this point. Indeed, on July 17, 1990, Williams wrote Laborers Business Manager Daniel Woodall advising him of Respondent's intent to sign a labor agreement with Laborers, pending resolution of outstanding health and welfare issues.

On October 24, 1990, Respondent and Laborers executed a collective-bargaining agreement covering essentially the same unit described in the Bechtel labor agreement. The agreement contained a union-security clause.

From the time Respondent commenced its operations at the Limerick site in mid-June 1990, until the late fall of 1990, its employees were unaware that Respondent had recognized Laborers to represent them. Indeed, Malone had instructed employees to find a union to represent them, based on his understanding that Respondent's contracts with PECO provided for union scale. In the fall of 1990, Laborers' representatives attempted to bring some people on site appar-

ently to be processed for hire by Respondent. It is unclear whether officials of Respondent had been notified or approved of this, but Malone, not previously having been informed, directed that these people, including the Laborers representatives, leave the Limerick site. There is no evidence that at this or any other relevant time Laborers represented a majority or anything near a majority of the Respondent's work force at the Limerick site.

On October 29, 1990, Teamsters filed a representation petition with the Board seeking to represent Respondent's custodial employees at the Limerick site. A scheduled hearing in that matter was indefinitely postponed on November 20, 1990.

Laborers thereafter initiated an internal proceeding against Teamsters for infringing on its turf under article XX of the AFL–CIO constitution. Ultimately, an umpire in this proceeding ruled that Teamsters had violated the constitution in seeking representation rights which had not been waived or abandoned by Laborers. Teamsters has not complied with this ruling which apparently became final under the internal procedures of the AFL–CIO.

As late as January 1991, Respondent's Limerick employees were still confused about their union representation. On January 23, 1991, Respondent's president, Sam Williams, responded to a letter previously written to him by employee Mark Windish in which Williams enclosed the applicable Laborers bargaining agreement and answered questions posed by Windish. It is clear from this letter that Respondent was not then enforcing the Laborers contract which it had concluded and entered into the previous October.

On July 3, 1991, Williams wrote a letter to employees stating that Respondent had signed an agreement with Laborers effective June 1, 1991, and that the agreement required employees to join Laborers within 30 days. Williams testified that he was thus informing his employees that the contract he had signed in October of 1990—effective by its terms as of June 1, 1990—was being put into effect as of June 1, 1991.

On July 22, 1991, two Laborers representatives met with Respondent's employees at the Limerick site. They reminded the employees of the 30 day notice for joining the union and payment of dues set forth in Williams' July 3 letter. They also stated that these requirements were set forth in the applicable collective-bargaining agreement and that the agreement was in effect and would be enforced.

The next day, July 23, Mark Windish met with President Williams in a conference room at the Limerick site. Windish sought clarification from Williams as to what would happen to employees if they did not join Laborers within 30 days. Williams stated that Windish should ''advise the employees to join [Laborers] within 30 days for job security reasons.'' Williams and Windish then discussed other matters, including the instant unfair labor practice proceeding, then scheduled for November 1991. Williams said that the hearing was well-timed because, shortly thereafter, his PECO contract bid would be renegotiated. Williams also said that he would prefer that the employees ''form a union amongst [themselves] within the unit, because [Respondent] was a non-union shop.'' Windish told Williams that he would present this to the employees but that he did not think there was ''much of a chance of that happening.''

On August 2, 1991, two Laborers representatives returned to Limerick to speak with employees. They said that they had union authorization cards and dues-checkoff cards for employees to sign. They also stated that the employees were required to pay a $150 initiation fee. A few employees paid the fee at this time, but most paid it in two installments after their next paychecks. A number of employees submitted a petition to Laborers stating that they were paying these moneys under protest. Some also signed the cards and forms with an indication that they were doing so under protest. In addition to assessments of 37 cents per hour, which have been deducted by Respondent from employees' paychecks since September 11, 1991, the employees have been informed by Laborers that they are required to pay dues of $33 per month directly to Laborers.

Employee James Harper did not attend the August 2 meeting. He met separately with officials of Laborers the next week and was informed of his requirements under the contract. Harper never signed an authorization card or a checkoff form and he never paid an initiation fee to the Laborers. On October 7, 1991, Harper received a letter from Respondent terminating his employment because he had not joined Laborers. Respondent concedes that it fired Harper because he refused to join Laborers pursuant to the contractual union-security clause.

B. *Discussion and Analysis*

An employer violates Section 8(a)(2) and (1) of the Act by recognizing a minority union and by entering into, maintaining, and enforcing a collective-bargaining agreement with such a union. Moreover, if that agreement contains a union-security clause requiring membership and the payment of dues, the employer's conduct described above also violates Section 8(a)(3) and (1) of the Act. *Ladies' Garment Workers Union (Bernhard-Altman) v. NLRB*, 366 U.S. 731 (1961); *AMA Leasing*, 283 NLRB 1017, 1024 (1987); *Human Development Assn.*, 293 NLRB 1228 (1989).

The evidence herein clearly shows that, when Respondent recognized Laborers in June or July 1990, Laborers did not have the support or authorization of a majority of the employees in an appropriate unit. Such recognition was thus unlawful. In the context of this unlawful recognition, Respondent's subsequent conduct of entering into, maintaining, and enforcing a bargaining agreement with Laborers, which also contained a union-security clause, violated Section 8(a)(3), (2), and (1) of the Act.

Respondent's only even remotely plausible defense—advanced on its behalf by Laborers—is that it recognized Laborers in furtherance of its obligation as a successor to Bechtel under the principles of *NLRB v. Burns Security Services*, 406 U.S. 272 (1972). This position has no merit. First of all, Respondent's custodial work at Limerick covered an area—the power plant—which was not covered by Bechtel. Thus, there was a significant difference between the unit covered in the Laborers-Bechtel contract and that covered in the Respondent's unit of employees. Secondly, there was no clear understanding that Respondent would hire all of the former Bechtel employees. There is no evidence that Respondent even talked with Bechtel officials or employees directly, much less that it made such a hiring commitment. At most Respondent agreed with Laborers to consider for employment a group of applicants submitted by Laborers, something

in the nature of a prehire agreement which is valid in the construction industry, but not in the custodial industry in which Respondent operated.[3]

Thirdly, and most importantly, Respondent did not actually hire but two former Bechtel employees, well short of a majority of the work force at the time of recognition. Laborers was itself responsible for not providing the potential employees it wanted hired for preemployment testing required by PECO. And, indeed, it is not clear, on this record, that the applicants it provided were former Bechtel employees, at least former employees working for Bechtel at the time of recognition. In any event, Respondent was forced to hire from outside sources and a substantial majority of those hired had no connection with either Bechtel or Laborers. Thus, there was no successorship bargaining obligation under any reading of Burns.[4]

Counsel for Laborers took the position at the hearing that Respondent's hiring in June and July 1990 was limited to utilizing a temporary rather than a permanent work force. This is contrary to the testimony of Lee Malone who said he was hiring permanent employees. Moreover, the contention proves too much, for, if these were truly temporary employees, Respondent's recognition would have been premature and unlawful for this reason alone. Indeed, since at the time of recognition Respondent had yet to take over work at the power plant and had hired less than half of its anticipated full complement of 40 employees, recognition was improperly premature on this ground whether the employes were temporary or permanent. See *Cascade General*, 303 NLRB 656 (1991).[5]

Laborers also contends that the Board should stay its hand in this case because the AFL–CIO favored it over Teamsters as the appropriate bargaining agent of the employees. The Board, however, has exclusive authority to resolve representation matters and it does not defer to private resolutions of such matters. See *Teamsters Local 814*, 223 NLRB 527, 530 (1976). This is particularly so when the private resolution, as here, contemplates a result contrary to established Board law. Compare *Laborers Local 60*, 305 NLRB 762 (1991), a case, unlike the instant case, which involved a jurisdictional dispute.

It is uncontested that Respondent discharged employee Harper for failing to join Laborers and abiding by the union-security clause in the flawed contract. In the circumstances of its unlawful enforcement of a contract with a minority union, Respondent's discharge of Harper was violative of Section 8(a)(3) and (1) of the Act.

The complaint contains two separate allegations of 8(a)(1) conduct attributed to Williams. One deals with his telling Windish to tell other employees that the union-security provisions of the contract would be enforced. The other deals with soliciting Windish to encourage employees to form their own union. The first is superfluous since Williams sent letters to employees informing them of his intent to enforce the contract, he actually did enforce the contract and such enforcement has been found to have been unlawful. This finding subsumes any statements made in connection with such enforcement. The second is based on an ambiguous conversation. I can make no sense out of what Williams allegedly told Windish. He already had a contract with Laborers which he intended to and did enforce. How he could say—or employees could believe that he would say—that the employees had his green light to form their own union in these circumstances is beyond my capacity to understand or rationally explain. Nor can I see who was coerced or how. Since these allegations add nothing to the real allegations in the rest of the complaint, I shall dismiss them.

CONCLUSIONS OF LAW

1. By recognizing Laborers Local 135 as the exclusive bargaining representative of its employees at a time when Laborers did not represent a majority of such employees, Respondent violated Section 8(a)(2) and (1) of the Act.

2. By entering into, maintaining, and enforcing a collective-bargaining agreement with Laborers Local 135 covering its employees, which contains a union-security clause, at a time when Laborers did not represent a valid majority of such employees, and by specifically enforcing the union-security clause in such agreement, Respondent violated Section 8(a)(3), (2), and (1) of the Act.

3. By discharging employee James Harper because he refused to join Laborers Local 135 or pay dues and fees in accordance with provisions in an unlawful collective-bargaining agreement, Respondent violated Section 8(a)(3) and (1) of the Act.

4. The violations set forth above are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Since Respondent has been found to have engaged in certain unfair labor practices, I shall recommend that it be ordered to cease and desist from engaging in such conduct in the future and to take certain affirmative action designed to effectuate the purposes of the Act.

I shall recommend that the Respondent (1) withdraw and withhold recognition from Laborers Local 135 unless and until it is certified as bargaining agent by the Board; (2) cease maintaining or enforcing the agreement with Laborers that it executed in October 1990; (3) reimburse all present and former employees for moneys paid or withheld from them for fees and dues to Laborers Local 135, with interest computed as set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987); (4) offer immediate and full reinstatement to employee James Harper to his former job or, if that job no longer exists, to a substantially equivalent position, and make him whole for any loss of earnings or benefits he may have suffered because of the discrimination against him, backpay to be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest computed in accordance with *New Horizons*, supra.

[3] It appears that Laborers did represent some of Bechtel's construction employees at the Limerick site and perhaps it thought—erroneously, it turns out, that it could treat the custodial unit the same way as it treated construction units.

[4] The contention made by Laborers in its brief that Bechtel was Respondent's subcontractor in June and July 1990, and that its employees must be counted as Respondent's has no basis in fact, on this record, or in law.

[5] *Cascade* contains, at 657 fn. 12, some good advice for employers such as Respondent who may feel ''caught in the middle'' of a representation dispute.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[6]

ORDER

The Respondent, A to Z Maintenance Corp., its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Recognizing or dealing with Laborers Local 135 as the exclusive bargaining representative of its custodial employees working at PECO's Limerick, Pennsylvania location, unless and until Laborers Local 135 shall have been certified by the Board as such exclusive bargaining representative.

(b) Maintaining or enforcing any portion of the contract between it and Laborers Local 135 executed in October 1990, or any renewal, modification, supplement or extension thereof, or giving effect to any dues-checkoff authorization executed pursuant thereto, unless and until Laborers Local 135 shall have been certified by the Board and such agreement has been validly entered into pursuant to such certification.

(c) Discharging or discriminating in any way against employees because of their failure to engage in union activities or to encourage or discourage union activities.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their Section 7 rights.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Withdraw and withhold any recognition from Laborers Local 135 as the exclusive bargaining representative of its custodial employees working at PECO's Limerick, Pennsylvania location, unless and until Laborers Local 135 shall have been certified as such representative by the Board.

(b) Reimburse all present and former employees for moneys paid by or withheld from them for initiation fees, dues, hourly working payments, or other obligations of membership in Laborers Local 135, with interest.

(c) Offer to James Harper immediate and full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to seniority or any other rights or privileges previously enjoyed, and make him whole for any loss of earnings and benefits he may have suffered as a result of the discrimination against him in the manner set forth in the remedy section of this decision.

(d) Expunge from its files any reference to the discharge of James Harper and notify him, in writing, that this has been done and that evidence of this unlawful action will not be used as a basis for future personnel actions.

(e) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records, and all other records necessary to determine and analyze the amounts due under the terms of this order.

(f) Post at its Limerick, Pennsylvania location copies of the attached notice marked ''Appendix.''[7] Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(g) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[6] If no exceptions are filed as provided by Sec. l02.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. l02.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[7] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of The United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

> To organize
> To form, join, or assist any union
> To bargain collectively through representatives of their own choice
> To act together for other mutual aid or protection
> To choose not to engage in any of these protected concerted activities.

WE WILL NOT recognize or deal with Laborers Local 135 as the exclusive bargaining representative of our custodial employees working at PECO's Limerick, Pennsylvania location, unless and until Laborers Local 135 shall have been certified by the Board as such exclusive bargaining representative.

WE WILL NOT maintain or enforce any portion of the contract between us and Laborers Local 135 executed in October 1990, or any renewal, modification, supplement or extension thereof, or give effect to any dues-checkoff authorization executed pursuant thereto, unless and until Laborers Local 135 shall have been certified by the Board and such agreement has been validly entered into pursuant to such certification.

WE WILL NOT discharge or discriminate in any way against employees because of their failure to engage in union activities or to encourage or discourage union activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of their Section 7 rights.

WE WILL withdraw and withhold any recognition from Laborers Local 135 as the exclusive bargaining representative of our custodial employees working at PECO's Limerick,

Pennsylvania location, unless and until Laborers Local 135 shall have been certified as such representative by the Board.

WE WILL reimburse all present and former employees for moneys paid by or withheld from them for initiation fees, dues, hourly working payments, or other obligations of membership in Laborers Local 135, with interest.

WE WILL offer to James Harper immediate and full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to seniority or any other rights or privileges previously enjoyed, and make him whole for any loss of earnings and benefits he may have suffered as a result of the discrimination against him with interest.

WE WILL expunge from our files any reference to the discharge of James Harper and notify him, in writing, that this has been done and that evidence of this unlawful action will not be used as a basis for future personnel actions.

A TO Z MAINTENANCE CORP.